

AN ORDINANCE

2019-03-07-0190

WAIVING THE REQUIREMENTS OF CHAPTER 4, SECTIONS 4-6, OF THE CITY CODE AND AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON 3.430 ACRES OUT OF NCB 11780, LOCATED AT 2823 HILLCREST DRIVE, FOR ON-PREMISE CONSUMPTION WITHIN THREE-HUNDRED (300) FEET OF BASKIN ELEMENTARY SCHOOL, A PUBLIC EDUCATION INSTITUTION LOCATED WITHIN SAN ANTONIO INDEPENDENT SCHOOL DISTRICT, COUNCIL DISTRICT 7.

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WHEREAS, Section 109.33 of the Texas Alcoholic Beverage Code authorizes the governing board of an incorporated city to enact regulations prohibiting the sale of alcoholic beverages if the place of business is within three hundred feet of any church, public school or public hospital as measured in a direct line from the property line of the public or private school to the property line of the place of business; and

WHEREAS, Section 109.33 of the Texas Alcoholic Beverage Code authorizes the governing body of an incorporated city to allow variances to the regulation if the governing body determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the governing board, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community; and

WHEREAS, pursuant to Section 109.33 (a)(1) of the Texas Alcoholic Beverage Code, Chapter 4 of the City Code of the City of San Antonio prohibits the sale of alcoholic beverages if the place of business is within three hundred feet of any church, public school or public hospital; and

WHEREAS, the subject property is situated within three hundred (300) feet of the nearest property line of the Baskin Elementary School, a public education institution; and

WHEREAS, Ordinance No. 88724, passed and approved on October 22, 1998, amended the City Code of the City of San Antonio adopting this distance requirement in Chapter 4, Article I, Sec. 4-6, and established a procedure for the granting of a variance to the prohibition; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The requirements of Chapter 4, Sections 4-6, prohibiting sales of alcohol for on premise consumption pursuant to the City Code of San Antonio, Texas, are waived and the variance request of Ann Elizabeth Munoz., applicant for owner Michael Litofsky, to sell alcoholic beverages for on premise consumption, on 3.430 acres out of NCB 11780, located at 2823 Hillcrest Drive within three hundred (300) feet of the Baskin Elementary School, is hereby granted. This variance to sell alcoholic beverages for on premise consumption is based on the following conditions: (a) authorization shall be limited to the reception hall; (b) alcohol sales will be for beer and wine for on premise consumption only; (c) authorization shall not transfer to different owners or different land uses; (d) authorization shall terminate in the event of non-operation or non-use for a period of twelve

03/07/19

Item No. 25

or more successive calendar months; (e) alcohol sales shall only be permitted between the hours of 7:00 a.m. and 12:00 a.m. (midnight) Monday through Friday, 7:00 a.m. and 1:00 a.m. on Saturday; and 12:00 p.m. and 12:00 a.m. (midnight) on Sundays; and (f) sales of alcohol shall not exceed thirty (30) percent of total revenue;

SECTION 2. A description of the property is attached as **Exhibit "A"** and made a part hereof and incorporated herein for all purposes.

SECTION 3. This Ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

PASSED AND APPROVED this 7th day of March, 2019.

M A Y O R

b
Ron Nirenberg

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Fa Andrew Segovia, City Attorney

Agenda Item:	25 (in consent vote: 25, 26, P-1, Z-1, Z-2, P-2, Z-3, P-3, Z-4, P-4, Z-5, Z-6, Z-8, Z-9, Z-10, P-5, Z-12)						
Date:	03/07/2019						
Time:	02:18:28 PM						
Vote Type:	Motion to Approve						
Description:	ALCOHOL VARIANCE # AV2019003 (Council District 7): Ordinance waiving the application requirements of City Code 4-6 and granting a variance authorizing the sale of alcoholic beverages on 3.430 acres out of NCB 11780, located at 2823 Hillcrest Drive for on-premise consumption within three-hundred (300) feet of Baskin Elementary School, a public education institution located within San Antonio Independent School District.						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor	x					
Roberto C. Treviño	District 1		x				x
Art A. Hall	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Greg Brockhouse	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x			x	
Clayton H. Perry	District 10		x				

EXHIBIT “A”

METES AND BOUNDS DESCRIPTION

December 7, 2018

BEING a 3.430 acre, (149,390 Sq. Ft.) tract of land consisting of Lot 2, Block 14, New City Block 11780, in the City of San Antonio, Bexar County, Texas, Hillcrest Subdivision Unit -1, recorded in Volume 3975, Page 75, Deed in the Deed and Plat Records, Bexar County, Texas, said 3.430 acre tract being more particularly described as follows:

BEGINNING at a ½" iron rod found at the north end of a circular cutoff at the intersection of the easterly Right-of-way line of Glenview Drive and the northerly Right-of-way line of Babcock Road for the most westerly corner of the herein described tract;

THENCE 262.50 feet along the easterly Right-of-way line of said Glenview Drive along a circular curve to the right having the following parameters:

Radius = 1170.00 feet
Chord Bearing = N 06°25'39" E
Chord Distance = 261.95 feet

to the west end of a circular cutoff at the intersection of the easterly Right-of-way line of said Glenview Drive and the southerly Right-of-way Shadyview Dr. for a northerly corner of the herein described tract;

THENCE 36.95 feet along said cutoff by a circular curve to the right having the following parameters:

Radius = 23.60 feet
Chord Bearing = N 57°42'30" E
Chord Distance = 33.29 feet

to a northerly corner of the herein described tract;

THENCE 78.16 feet along the southerly Right-of-way line of said Shadyview Dr. by a circular curve to the left having the following parameters:

Radius = 952.79 feet
Chord Bearing = S 79°47'18" E
Chord Distance = 78.16 feet

to a point;

THENCE South 58°30'01" East, 286.08 feet along the southerly Right-of-way line of said Shadyview Dr. to the north end of a circular cutoff at the intersection of the southerly Right-of-way line of said Shadyview Dr. and the northwesterly Right-of-way line of Hillcrest Rd. for an easterly corner of the herein described tract;

THENCE 39.27 feet along said circular cutoff by a circular curve to the right having the following parameters:

Radius = 25.00 feet
Chord Bearing = S 37°08'18" E
Chord Distance = 35.36 feet

Exhibit "A"

to an easterly corner of the herein described tract;

THENCE South $31^{\circ}30'00''$ West, 174.02 feet along the northwesterly Right-of-way line of said Hillcrest Dr. to the most easterly corner of Lot 3; Block 14, New City Block 11780, in the City of San Antonio, Bexar County, Texas, Hillcrest Subdivision Unit -1, recorded in Volume 5940, Page 179, Deed in the Deed and Plat Records, Bexar County, Texas;

THENCE North $65^{\circ}22'00''$ West, 150.00 feet to northerly line of said Lot 3 for the most northerly corner of said Lot 3;

THENCE South $31^{\circ}30'00''$ West, 65.00 feet along the westerly line of said Lot 3 for the most westerly corner of said lot 3;

THENCE South $65^{\circ}22'00''$ East 25.00 feet along the southerly line of said Lot 3 to the lot northerly corner of a 0.32 Acre tract of land conveyed in Volume 12162, Page 1253, Official Public Records, Bexar County, Texas;

THENCE South $31^{\circ}30'00''$ West, 125.00 feet along northwest line of said 0.32 Acre tract to a point in the northerly Right-of-way line of said Babcock Road for the most southerly southerly corner of the herein described tract;

THENCE North $66^{\circ}21'43''$ West, 245.95 feet along the the northerly Right-of-way Babcock Dr. to the south end of said circular cutoff at the intersection of the easterly Right-of-way line of said Glenview Drive and the northerly Right-of-way line of said Babcock Road for the southwest corner of the herein described tract;

THENCE 39.27 feet along said cutoff by a circular curve to the right having the following parameters:

Radius = 25.00 feet

Chord Bearing = N $45^{\circ}00'00''$ E

Chord Distance = 35.36 feet

to the POINT OF BEGINNING.

Stephen G. Cook
Registered Professional Land Surveyor
TBPLS Firm # 10005400
TBPE Firm # F-184

SGCE # 999-778-476A

